IN THE HIGH COURT OF UTTARAKHAND
AT NAINTAL

Writ Petition No. 1644 (SS) of 2004

Shashi Chandra Shah,
S/o late Sri Chaman Lal Shah,
R/o Village – Kodiya,
Nazibabad Road, Kotdwar,
District – Pauri Garhwal. **……..Petitioner.**

Versus

1. State of Uttarakhand through its Secretary, Rural Development, Dehradun.
2. Director of Pension, Directorate Office, Uttaranchal, Pauri, District – Pauri Garhwal.
3. Chief Development Officer / District Collector, Pauri Garhwal.
4. District Development Officer, Pauri District – Pauri Garhwal.
5. Block Development Officer, Block – Yamkeshwar, District – Pauri Garhwal.

……..Respondents

Hon'ble M.M. Ghildiyal, J

Heard Sri R.K. Shah, learned counsel for the petitioner and Sri N.P. Shah, learned standing counsel for State of Uttarakhand on behalf of respondents.

By means of this writ petition, the petitioner has prayed for the following reliefs:

1. *issue a writ, order or direction in the nature of Certiorari to quash the order dated 07.04.2000 and 02.12.2000 of the respondent no. 4.*
2. *issue a writ order or direction in the nature of Mandamus directing the respondent no. 3 to decide the representation of petitioner dated 18.06.2001 (Annexure No. 8) and release full pension of the petitioner including arrears of pension.*

3. *issue a writ order or direction in the nature of Mandamus directing the respondents to release the full pay of suspension period.*

4. *issue any suitable writ, order or direction in the nature of which this Hon'ble court may deem fit and proper in the circumstances of the case.*

5. *award the costs of the writ petition to the petitioner.*

Petitioner was suspended by the respondent no. 4 vide order dated 07.05.1999 and vide order dated 27.12.1999, after holding inquiry, he was punished by stopping three increments. Another order was passed by the respondent no. 4 on 02.12.2000 not to make payment of salary for the period from 29.02.2000 to 04.03.2000 as the petitioner was absent from duty for the period.

I do not find any illegality in passing order not to make payment for the period during which petitioner remained absent and as such, there is no question of quashing the order dated 02.12.2000. So far as order dated 07.04.2000 which is sought to be quashed is chargesheet issued by respondent no. 4 i.e. District Development Officer, Pauri Garhwal asking the petitioner to reply the Charges leveled against him within 15 days.

Petitioner could not show any ground why this order dated 07.04.2000 should be quashed. The second prayer is for direction to the respondent no.3 to decide the petitioner's representation dated 18.06.2001 by which petitioner has prayed to make payment for the period during which he was placed under suspension.

In the punishment order dated 27.12.1999, respondent no. 4 has specifically stated that separate order shall be

passed for payment of petitioner's salary for the period of his suspension.

According to the petitioner since no order has been passed by the respondents not to make payment of salary for his suspension period respondents are duty bound to pay salary for that period.

During the course of argument learned counsel for the petitioner has further prayed that respondents may be directed to release the pension of the petitioner including arrears as alleged by him, as the petitioner has already been retired from service on 31.01.2002.

Counter affidavit has been filed by the respondents on 25.02.2006. Respondents have no where mentioned that there is any order passed by the respondents not to make payment of salary for the period during which the petitioner was under suspension. Further there is no whisper in counter affidavit whether post retirel benefits has been paid to the petitioner or not? The averments made in the counter affidavit are vague.

In the circumstances stated above, I deem fit and proper to direct the respondents to make payment of salary to the petitioner for which he is entitle including the pension, gratuity, provident fund within a period of two months from the date of production of certified copy of this order.

With this direction, writ petition as well as stay application no. nil of 2004 is finally disposed of. No order as costs

(M.M. Ghildiyal, J)

March 2, 2007
SKSharma